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E.O. 12958: N/A

TAGS: PGOV, PREL, PINR, MX

SUBJECT: ELECTORAL TRIBUNAL CALLS FOR PARTIAL RECOUNT

REF: MEXICO 3422

1. (SBU) Summary: In a unanimous August 5 decision, Mexico's Electoral Tribunal (TEPJF) rejected the Democratic Revolutionary Party's (PRD) request for a complete, nationwide recount of the results of the July 2 presidential election, ordering instead a recount in the 11,839 precincts (casillas) in which it found the PRD's impugnations to meet the statutory criteria for a recount. This partial recount is to begin on August 9 and must be completed within five days. As expected, PRD presidential candidate Andres Manuel Lopez Obrador (AMLO) immediately rejected the TEPJF's decision, and invited his supporters to an "informational meeting" to be held August 7 outside the TEPJF headquarters. Although the TEPJF's decision brings the determination of the final election result one step closer, AMLO's initial response indicates we may be no closer to a resolution of the political stand-off surrounding the results. End summary.

Tribunal Sticks to the Law

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2. (U) In an August 5 decision approved by all seven magistrates, the TEPJF rejected the PRD's request for a nationwide recount, ordering instead a limited recount in 11,839 of the precincts impugned by the PRD, those in which the TEPJF found that the legal standard for a recount was met. The 11,839 precincts subject to the recount are spread among 149 of Mexico's 300 electoral districts and 26 of its 32 states (including the Federal District), and they are concentrated in districts won by Felipe Calderon. The precincts selected for recount were those in which the PRD demonstrated obvious errors in the original count. They did not include districts in which the PRD alleged irregularities unrelated to the vote count, such as the allegedly improper substitution of poll workers and the alleged exclusion of PRD representatives from certain polling places. The TEPJF ordered the recount to begin on August 9 and to be completed within a span of five days. It will be conducted by IFE district officials in the IFE's corresponding 149 district offices, although federal judicial officials will supervise the recount in each district. Each political party is permitted to send one representative to observe the recount in each district.

3. (U) In rejecting the PRD's request for a nationwide recount, the TEPJF observed that the PRD did not specifically impugn every election district or precinct. It ruled that a complainant must specifically impugn all precincts or districts for the TEPJF to be able to consider ordering a nationwide recount. Where a complainant fails to impugn the results in a particular electoral district or precinct, the count in that jurisdiction is considered final and not subject to recount. It rejected the PRD's argument that alleged irregularities in the count in one precinct could call into question the count in other precincts. The TEPJF also dismissed as irrelevant to the issue of a recount many of the specific grounds cited by the PRD in its complaint, including the alleged interference of President Fox in the campaign, the alleged misuse of GOM social programs for political ends, and excessive campaign spending, among others, noting that there was no causal relationship between those factors and possible irregularities in the vote count.

Tribunal President Defends Electoral System

4. (U) Before asking for a vote on his proposed decision, TEPJF President Leonel Castillo launched into an impassioned

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defense of the credibility of Mexico's federal electoral system. Responding to the PRD's argument that the results of the election failed to fulfill the constitutional principle of "certainty," Castillo argued that the Mexican electoral code contemplates that such certainty is guaranteed by having the votes counted by randomly selected and trained citizens. Gesticulating emphatically, he added that the electoral code incorporates numerous overlapping safeguards -- including the right of political parties to observe every step of the voting and vote counting process -- to ensure the certainty and transparency of the results.

PRD Legal Team Storms Out of Courtroom

5. (U) As the TEPJF Secretary General read the first part of the proposed decision, in which the TEPJF rejected the PRD's arguments in favor of a complete recount, PRD legal advisor Ricardo Monreal shook his head in disagreement. As soon as the Secretary General read the portion of the decision in which the TEPJF rejected a nationwide recount, Monreal and PRD Senator-elect Arturo Nunez defiantly left the courtroom. Shortly thereafter, the sounds of car horns and chanting protesters could be heard outside the courtroom. Once the two hour hearing ended, the approximately 100 protesters outside the TEPJF grew even louder, accusing the magistrates of having been bought off. Out of concern for their safety, security guards prevented observers (including poloff) from leaving the TEPJF compound for approximately 40 minutes, until the protesters announced that they did not intend to trap observers inside, and that they would permit them to leave unmolested.

AMLO Rejects Decision, Calls for Protests to Continue

6. (U) Later on August 5, AMLO told his supporters assembled in the Zocalo that he rejected the TEPJF's decision, which he characterized as "narrow," "legally weak," and "lacking sufficient and decent argumentation." He called for his supporters to continue their "peaceful civil disobedience." In remarks to his supporters on August 6, he announced that he would hold an "informative meeting" outside the TEPJF's headquarters on Monday, August 7. Other AMLO supporters announced they would start sending protesters to all of President Fox's public events, to urge a nationwide recount. In contrast, the PAN announced that it accepted the TEPJF's decision, as did the PRI and Patricia Mercado's Social

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Democratic and Peasant Alternative Party.

Comment: TEPJF Resists Public Pressure

7. (SBU) In rejecting the PRD's request for a nationwide recount and ordering a partial recount only in those precincts specifically and effectively impugned by the PRD, the TEPJF demonstrated its determination to apply the electoral code strictly, and to resist public pressure. The unanimous nature of the decision should strengthen its credibility in the eyes of the mainstream public and appears intended to reassert the integrity of Mexico's electoral system. Presiding Magistrate Castillo's closing remarks confirmed our impression that the PRD failed to assemble a well-documented case and did not offer proof of irregularities in the great majority of precincts. Accordingly, we cannot help but conclude that the PRD has focused far more effort in convincing its supporters, rather than the TEPJF, of the rightness of its cause. As a result, AMLO's distrust of government institutions appears to have become a self-fulfilling prophecy.

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